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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,247

11/14/2006

Dean K. Reidt

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03/11/2010

3M INNOVATIVE PROPERTIES COMPANY

PO BOX 33427

ST. PAUL, MN 55133-3427

EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3754

NOTIFICATION DATE

DELIVERY MODE

03/11/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/568,247	Applicant(s) REIDT ET AL.	
	Examiner LIEN TM NGO	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 81-99 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 81-99 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 81, 82, 88, 89, 93 and 95-98 are rejected under 35 U.S.C. 102(b) as being anticipated by Maeder (5,065,906). Maeder discloses, in figs. 1 and 4, a capsule for two components which are to be mix together comprising a cartridge 1 having an outlet 3, a first and second component chambers, a rigid partition wall 4, a piston 6 having first and second piston members which lie their rear end outside the component chambers; wherein the capsule is adapted for use within an applicator 12 having a plunger 15.

3. Claims 81, 82, 84-86, 88, 89, 93-98 are rejected under 35 U.S.C. 102(b) as being anticipated by Maziarz (5,535,992). Maziarz discloses, in fig. 1, a capsule for two components which are to be mix together comprising a cartridge having an housing 30, an outlet 20, a first and second component chambers 13, 14, a rigid partition wall, a piston having first and second piston members which lie their rear end outside the component chambers; wherein the capsule is adapted for use within an applicator 40 having a plunger 46.

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4. Claims 81, 87 and 97 are rejected under 35 U.S.C. 102(b) as being anticipated by Rausch (4,735,509). Rausch discloses, in fig. 1 and 6 a capsule for two components which are to be mix together comprising a cartridge 10 having an outlet 16, a first and second component chambers 18, 20, a flexible partition wall, a piston 26 lying their rear end outside the component chambers; wherein the capsule is adapted for use within an applicator⁵⁸ having a plunger 60.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 83, 87, 90-92, 94 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeder in view of Chan (6,406,972).

Chan teaches, in figs. 1, 4 and 6, a capsule for two components which are to be mix together comprising a cartridge¹², seal foils 18, 51, 52, 90, an cannula closing off the outlet of the cartridge in a first position and connecting to the outlet of the cartridge in a second position, the components being a dental material. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the capsule of Maeder with seal foils, a cannula and the component being a dental material, as taught by Chan, in order to have a tight seal capsule for dispensing dental material.

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7. Claim 84, 85, 86 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeder in view of Sauer (5,897,028).

Sauer teaches, in fig. 4, a capsule for two components which are to be mix together comprising a cartridge defining two housing for holding first and second components chambers 40.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the capsule of Maeder with component material containing in component chambers, as taught By Sauer, in order to facilitate of refilling the component material.

Response to Arguments

8. Applicant's arguments with respect to claims 81-99 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LIEN TM NGO/
Primary Examiner, Art Unit 3754

March 2, 2010

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